

STATE OF MONTANA
BEFORE THE BOARD ON PERSONNEL APPEALS

IN THE MATTER OF UNFAIR LABOR PRACTICE CHARGE NO. 3-85:

GEORGE R. DENNIS, PAUL
GLENNER, VINCENT KYLE and
STAN SMITH,

Complainants,

-vs-

GREAT FALLS HOUSING AUTHORITY,

Defendant.

FINAL ORDER

On March 7, 1985, Investigator Joseph V. Maronick issued a Report and Recommendation on the Investigation of Alleged Unfair Labor Practice dismissing the charge for the reason that it was not timely filed.

Exceptions to the Report and Recommendation were filed on March 18, 1985 by the Complainants.

Oral argument was scheduled before the Board of Personnel Appeals on April 12, 1985.

After reviewing the record and considering the briefs and oral arguments, the Board Finds and Orders as follows:

1. IT IS ORDERED that the Exceptions to the Investigation of Alleged Unfair Labor Practice Report and Recommendation are hereby denied.

2. IT IS ORDERED that this Board therefore adopts the Report and Recommendation issued by Investigator Joseph V. Maronick dismissing the charge as the Final Order of this Board.

DATED this 1 day of May, 1985.

BOARD OF PERSONNEL APPEALS

By Alan L. Josephlyn
Alan L. Josephlyn

STATE OF MONTANA
BEFORE THE BOARD OF PERSONNEL APPEALS

IN THE MATTER OF UNFAIR PRACTICE CHARGE #13-85

GEORGE R. DENNIS, PAUL,
GUENTHER, VINCENT KYLE and
STAN SMITH

Complainants,

-VS-

GREAT FALLS HOUSING AUTHORITY

Defendant.

INVESTIGATION OF
ALLEGED UNFAIR
LABOR PRACTICE:

REPORT AND
RECOMMENDATION

The complainants are employed by the Great Falls Housing Authority as maintenance workers. On July 3, 1984, they discovered that the contract between the Painters Union Local No. 260 and the Housing authority had been continued to June 30, 1985 without negotiations as they had wished. The contract requires written notice of the desire to negotiate contract terms. Paragraph 24 "Duration Clause" provides:

"A. This Agreement shall be in full force and effect from July 1, 1981 to and including June 30, 1984 and shall continue from year to year thereafter unless written notice of desire to cancel or terminate the Agreement is served by either party upon the other not less than sixty (60) and not more than ninety (90) days prior to June 30, 1984, or June 30th of any subsequent contract year.

B. Where no cancellation or termination notice is served and the parties desire to continue said Agreement, but also desire to negotiate changes or revisions in this Agreement, either party may serve upon the other written notice not less than sixty (60) days and not more than ninety (90) days prior to June 30, 1984 or June 30th of any subsequent contract year advising that such party desires to revise or change the terms and conditions of such agreement. The opening notice shall specify the changes desired."

The complainants admit they failed to submit written notice during the window period as required. The contract was continued in accordance with the Duration Clause. On January 17, 1985, the complainants filed an unfair labor

1 practice charge with the board alleging defendants violation
2 of Section 39-31-401(5) MCA.

3 Montana Codes Annotated 39-31-404 states that:

4 SIX-MONTH LIMITATION ON UNFAIR LABOR PRACTICE
5 COMPLAINT - EXCEPTION. No notice of hearing shall
6 be issued based upon any unfair labor practice
7 more than 6 months before the filing of the charge
8 with the board unless the person aggrieved thereby
9 was prevented from filing the charge by reason of
10 service in the armed forces, in which event the
11 6-month period shall be computed from the day of
12 his discharge.

13 From the facts found in the complaint it appears that
14 the complainants became aware of the alleged unfair labor
15 practice, if any, on July 3, 1984. The complaint was filed
16 on January 17, 1985. This is beyond the six months statute
17 of limitations. Therefore, the complainants Unfair Labor
18 Practice Charge is dismissed as not filed timely.

19 DATED this 7 day of March, 1985.

20 BOARD OF PERSONNEL APPEALS

21 By:

22 Joseph V. Maronick
23 Joseph V. Maronick
24 Investigator

25 SPECIAL NOTE

26 Montana Codes Annotated 39-31-405(2) states in part:

27 ... The dismissal becomes a final order of the board
28 unless either party requests a review of the decision to
29 dismiss the complaint. The request for a review must be
30 made in writing within 10 days of receipt of the notice of
31 intention to dismiss.